



Wyoming Lender Alert

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Steven Despain, District Director

Making a Difference for Small Business in Wyoming



Steven Lobdell
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Environmental Investigation

"Title reports, closing costs, and loan fees are expensive enough, but now the SBA wants an environmental investigation. I've looked at the property and I didn't see chemicals oozing out of the ground. Isn't that good enough? A Phase I will just cost my customer more money and time."

When a loan officer (usually a new loan officer) asks me this question I ask: "Would you make a \$500,000 loan to buy a building and not get a title policy." The answer is always: "Of course not." Neither should a lender make a loan on real property without conducting an adequate environmental investigation. Undetected environmental contamination jeopardizes the lender's lien position, loan repayment, and potential recovery just as much as any lien or mortgage.

SBA SOP 50-10(4)(B), pages 115 - 128-2, sets out the requirements for an acceptable environmental investigation. Space does not allow for a thorough discussion of the SOP, but every lender should become familiar with the SOP. This article is a general discussion of the purpose of an environmental investigation.

A good environmental investigation will collect as much information about the history, ownership and uses of the property as is necessary to form a "Reasonable and Prudent Belief That There Is No Risk of Contamination." Sounds clear, but how much information is enough? Again, space does not permit a comprehensive answer. But ask yourself this question: "Would I risk my own money based upon the information I now have?" If the answer is "No" or you're not sure, then you probably don't have enough information.

The tools for collecting sufficient information are the Environmental Questionnaire, Environmental Records Review, Transactional Screening Analysis (TSA), Phase I and Phase II. Each one is more expansive than the one before it. The environmental investigation can start with the questionnaire and should progress to the level at which the lender can establish a reasonable and prudent belief that the risk of contamination is minimal.

The environmental questionnaire may be a satisfactory environmental investigation if:

- There have been no business or agricultural operations on the property;
- The property is part of a multi-unit complex;
- A satisfactory Phase I Audit has been completed within one year of the loan application;
- A Phase I Audit has been completed within one year of the loan application indicating contamination and: (1) the Regulatory Agency

has determined no remediation is necessary; or (ii) monitoring has been completed; or (iii) an adequate indemnification agreement exists;

- There is a: Reasonable and Prudent Belief That There Is No Risk of Contamination.

If the property does not meet one of the above conditions, then a TSA, Phase I or Phase II should be pursued.

Prior to disbursement of the loan, a non-PLP Lender is required to submit the results of its environmental investigation (questionnaires, records review, TSA, Phase I, or Phase II) to the District Office prior to disbursement of the loan. It is best to conduct the environmental investigation as early as possible in the loan making process. The results of the environmental investigation can be submitted to the District Office at any time prior to disbursement and even before submission of the application for the SBA guaranty.

The SBA loan officer and the District Counsel review the environmental investigation to determine if the information is sufficient to form a reasonable and prudent belief that the risk of environmental contamination is minimal. The District Office may request additional information, if additional information is needed to reach a conclusion. The lender will be notified in writing that the District Office concurs with its investigation.

If you have any questions regarding environmental investigation requirements, please call Steven A. Lobdell, District Counsel at (307) 261-6503 or email him at Steven.Lobdell2@sba.gov.

7(a) and 504 Program Changes Effective Oct. 1, 2004

The purpose of this notice is to explain the changes to the 7(a) and 504 Loan Programs effective October 1, 2004. These changes are in part the result of Continuing Resolution H.J. Res. 107 ("CR"), which will be in effect until November 20, 2004, and the expiration of certain temporary statutory provisions.

7(a) Program

The following chart explains the changes in the guaranty fee, the lender annual service fee, and the commercial loan fee as follows:

On the chart, the fees under the "Beginning October 1, 2004" column are effective for loans **approved** on or after October 1, 2004. The fees under the "Through September 30, 2004" column will be applied to all loans approved by SBA (which must include the issuance of a SBA loan number and obligation of SBA funds) through and including September 30, 2004.

Other Changes

7(a) Loan Guaranty Limit

The loan guaranty limit under section 7(a)(3)(A) of the Act was temporarily increased from \$1.0 million to \$1.5 million (as a result of PL 108-217). This provision expired on September 30, 2004. As a result, beginning on October 1, 2004, the maximum guaranty permitted under this section is again \$1.0 million.

Combination Financing/Piggyback Financing

PL 108-217 also established a temporary new financing vehicle entitled "Combination Financing." The financing was comprised of a loan guaranteed under the 7(a) Loan Program and a commercial loan not guaranteed by the Federal government. In most cases, the SBA guaranteed loan was subordinate to the commercial loan. PL 108-217 provided that if the commercial loan

was in a senior lien position, the lender participant of the SBA guaranteed loan was required to pay SBA an additional fee of 0.7 percent of the commercial loan amount. The combination financing provisions expired on September 30, 2004, and as a result, beginning October 1, 2004, "Combination Financing" is not allowed. Any provisions concerning Combination Financing that were imposed by SBA Policy Notice No. 0000-1727 are no longer effective. In addition, SBA's practice of allowing "piggyback financing", as defined in SOP 50 10 (4), will be suspended effective October 1, 2004, until further notice.

SBAExpress

The maximum loan amount for SBAExpress loans was temporarily increased from \$250,000 to \$2 million (as a result of PL 108-217). This provision expired on September 30, 2004. Accordingly, the maximum loan amount for SBAExpress loans **approved** on or after October 1, 2004 is again \$250,000, as set forth in the SBAExpress program guide dated October 1, 2002.

New 7(a) Wizard

SBA has altered the current 7(a) Authorization Wizard Version 2004 with a revised "7a Wizard 2004.1." 7a Wizard 2004.1 will be available on October 4, 2004, to Lenders and SBA personnel at SBA's banking website at www.sba.gov/banking. Normally, there is a 30-day grace period for Lenders to incorporate the newest version of the wizard. However, beginning October 4, 2004, Lenders must use 7a Wizard 2004.1 in order to ensure that they are meeting the requirements for 7(a) loans that become effective October 1, 2004. For SBA, the 7a Wizard 2004.1 will automatically replace the 7a Wizard 2004 on SBA's servers for use by the SBA field offices on Monday, October 4, 2004.

If you have any questions regarding the 7a Wizard 2004.1, please submit your questions to the

7(a) Authorization email box at Auth-7a@sba.gov.

504 Fee Change

Each fiscal year, the on-going guaranty fee paid by 504 borrowers to SBA under 13 CFR 120.971(d)(2) is adjusted as part of the fee structure required to cover the costs of the 504 Program associated with loan defaults, and to keep the 504 Program at a zero subsidy rate. For loans approved in FY 2005, the on-going guaranty fee for 504 loans is 0.288 of one percent. This is a decrease from the FY 2004 fee of 0.393 of one percent.

SBA has notified Colson Services Corporation of this change.

Instructions to Manually Change the 504 Wizard

The on-going guaranty fee in the 504 Authorization "Wizard" must be changed by the user (whether SBA or the CDC) in order to reflect the correct fee. The wizard that is currently available has an on-going fee that will default to "0.393" in Paragraph B.6 of the 504 Authorization.

To set the on-going fee to the new value, first change the on-going guaranty fee to 0.288 in the "On-Going Guaranty Fee" Wizard panel of the Project Information Section. After inputting the above value, click on the "Default" button located in the same section. The value will then be set for all future 504 loan authorizations. Each user must set this default on their machine.

The next version of the 504 Wizard will reflect the fee in effect at that time.

Notification and Questions

SBA district offices must notify Certified Development Companies and 7(a) Lenders of these changes. SBA district offices with questions on this notice may direct their questions to James Hammersley via email at james.hammersley@sba.gov. CDCs and Lenders are directed to forward questions to the local SBA field office.

<u>Fees</u>	<u>Through September 30, 2004</u>	<u>Beginning October 1, 2004</u>
<u>Guaranty Fee</u> (under 13 CFR 120.220(a))		
<u>Total Loan Amount</u> \$150,000 or less	1 percent (of SBA guaranteed portion)	2 percent (of SBA guaranteed portion). Lender is again permitted to retain 25 percent of the fee.
\$150,001 to \$700,000	2.5 percent	3 percent
\$700,001 +	3.5 percent	3.5 percent (no change)
<u>SBA-Guaranteed Portion of Loan Amount</u> \$1,000,001 to \$1,500,000	0.25 percent of the amount over \$1,000,000	No such fee (the fee, and the \$1.5 million limit on loan guarantee amount, both expired September 30, 2004)
<u>Lender Annual Service Fee</u> (under 13 CFR 120.220(f))	0.36 percent of the outstanding balance of the SBA guaranteed portion	0.50 percent of the outstanding balance of the SBA guaranteed portion
<u>Commercial Loan Fee</u> Combination Financing (created by Public Law 108-217 as of April 5, 2004)	0.7 percent of the amount of the commercial loan in a senior lien position	No such fee (Combination Financing expired on September 30, 2004).

**FAITH-BASED AND
COMMUNITY INITIATIVES**
**Federal Funds for Organizations
That Help Those in Need**

If you are in the business of caring for people in need, you need money to do your job. Chances are that if you had a little more money, you'd be able to help more people and do your work better. That's where Federal grants come into play. If you run an organization to help those in need, you may be eligible to receive Federal money through grant programs.

The following list of over 150 programs represents many of the programs, offered by various Federal agencies, of interest to small, faith-based and community groups. However, there may be other programs in these or other agencies that we have not yet listed. Additional programs will be added over time. Visit www.fbc.gov every now and then to search an updated list. You can also visit www.grants.gov/ and www.fedbizopps.gov.

The programs that follow are organized into general categories. In each category, you will find programs from several different Federal agencies. For example, in the Elders in Need category are programs operated

by the Departments of HHS and HUD. At the beginning of each category are programs for which you make application directly to one of the Federal agencies. In every case, the contact information in the listing is a good place to start for learning about the application process and other details about the program.

You will find "formula grant programs" at the end of most categories. These are the programs in which the Federal government makes large grants available to States and local governments. These States and localities then award grants themselves to grassroots and other organizations. Totaling more than \$50 billion, formula grants represent a wide range of funding opportunities. To learn about these opportunities, you will need to get in touch with your local and State agencies responsible for managing these programs.

For more information on the grants process, please visit <http://www.whitehouse.gov/government/fbc/grants.html>. You may also download the grants catalogue as a PDF file by visiting <http://www.whitehouse.gov/government/fbc/GrantCatalog2004.pdf>.

Please contact Steven F. Despain, District Director, Wyoming District

Office for more information. You may reach him at (307) 261-6501 or via email steven.despain@sba.gov

**2005 SBA SMALL BUSINESS
AWARD NOMINATIONS**

Don't forget, nominations are due Nov. 10th to Beth Hink, SBA, PO Box 44001, Casper, WY 82602. For more information, please contact Beth at (307) 261-6502 or email at elizabeth.hink@sba.gov.

UPCOMING EVENTS

November 2 - Women's Roundtable
Jackson

November 3 - Women's Roundtable
Casper

November 3 - Government
Procurement Conference, Saratoga

November 4 - Women's Roundtable
Laramie

November 16 - Women's Roundtable
Cody

November 18 - Women's Roundtable
Powell

November 30 - WNET Call